

32358

SERVICE DATE - DECEMBER 28, 2001

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

DOCKET NO. AB-290 (Sub-No. 220X)

**Norfolk Southern Railway Company - Abandonment Exemption - in Wise County,
Virginia**

BACKGROUND

In this proceeding, Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of the line extending between Milepost AM-0.0 at Arno Junction and Milepost A-3.03 at Derby, a distance of approximately 3.03 miles in Wise County, Virginia. A map depicting the rail line in relationship to the area served is appended to the report. If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

DESCRIPTION OF THE LINE

According to NSR, this line, called the Derby Branch, was built by Interstate Railroad Company as part of the Arno Branch extension in 1924 to tap the coal reserves of southwestern Virginia. No traffic has originated, terminated or moved overhead on this line segment since at least January 1, 1998, when the sidetrack agreement with the last coal mine operator on the line, Westmoreland Coal Company, was canceled. No future traffic is anticipated. The line does not contain Federally granted rights-of-way (ROW). NSR is unaware of any potential public purposes to which the ROW may be suited. NSR does not have fee title to all the ROW underlying the line proposed for abandonment; therefore, NSR does not have a contiguous corridor available for future public use.

The land use along the line proposed for abandonment of service is approximately 15% residential and 85% wooded. Where NSR owns the ROW it will be allowed to naturally revegetate. Where NSR does not own the ROW, the owner and local zoning and development ordinances will control future land use.

The line proposed for abandonment crosses Preacher Creek and several of its unnamed tributaries, as well as Callahan Creek, and passes through 100-year flood plains and wetlands associated with these waterways. NSR states that it does not intend to alter the contour of the roadbed during salvage, and that it has no plans to undertake in-stream work, with salvage activities to be performed in the right-of-way whenever possible.

ENVIRONMENTAL REVIEW

NSR submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. NSR served the environmental and historical reports on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's environmental rules [49 CFR 1105.7(b)]. We have reviewed and investigated the record in this proceeding.

The Commonwealth of Virginia Department of Historic Resources (VA SHPO) has completed their assessment of the potential impact of this project on historic resources, and has concluded that this project will not effect historic properties.

The Commonwealth of Virginia Department of Environmental Quality has indicated that the Virginia Air Pollution Regulation for fugitive dust emissions (9 VAC 5-40-90) could be applicable at this site. Prior to commencement of any salvage activities on this project, NSR will be required to contact the Commonwealth of Virginia Department of Environmental Quality.

Both the U.S. Fish and Wildlife Service (US FWS) and the Commonwealth of Virginia Department of Game and Inland Fisheries have advised us that there are a number of species with federal status and species of concern in Wise County. According to these agencies, and our review, the species most likely to be affected include federally endangered or state endangered mussels which may occur in streams or waterways crossed by or adjacent to the rail line. The US FWS concludes that if strict erosion control measures are taken the proposed abandonment is not likely to adversely affect these mussel species. Accordingly, we will recommend a consultation condition requiring that NSR contact the Virginia Department of Game and Inland Fisheries prior to salvage to evaluate impacts to the mussel species.

CONDITIONS

We recommend that the following two environmental conditions be placed on any decision granting abandonment authority:

1. To address the concerns raised by the Commonwealth of Virginia Department of Environmental Quality, NSR shall, prior to commencement of any salvage activities on this project, contact the Commonwealth of Virginia Department of Environmental Quality concerning possible impacts from fugitive dust emissions.
2. Prior to any salvage activities, NSR shall consult with the Commonwealth of Virginia Department of Game and Inland Fisheries, (Amy Martin at 804-367-2211) to evaluate potential impacts to federal and state endangered mussel species that may occur in waterways that are crossed by or are adjacent to the line proposed for abandonment.

CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and, therefore, no change in operations), discontinuance of service without abandonment and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

If abandonment and salvage of the rail line does take place, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Surface Transportation Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Surface Transportation Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. However, the Board will accept late-filed requests as long as it retains jurisdiction to do so. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592 or mail inquiries to the Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Vernon A. Williams, Office of the Secretary, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this environmental assessment. **Please refer to Docket No. AB-290 (Sub No. 220X) in all correspondence addressed to the Board. Questions regarding this environmental assessment should be referred to Kenneth Blodgett at (202) 565-1554.**

Recent events involving a principal postal facility within Washington, D.C. may affect for a period of time the receipt of materials mailed to the Board, as well as customer receipt of reply mail sent from the Board. Until the timely delivery of mail has been reestablished, the Section of Environmental Analysis (SEA) requests that individuals filing comments regarding this or other environmental assessments take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact indicated above prior to the close of the comment period and inform them that you have mailed a comment.
2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.
3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

Date made available to the public: December 28, 2001.

Comment due date: **January 11, 2002 (15 days).**

By the Board, Victoria J. Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

MAP TO BE SCANNED